

### **REMARKS**

In the Final Office Action<sup>1</sup>, the Examiner rejected claims 1-17 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 5,948,085 to Blatter ("Blatter") in view of U.S. Patent 4,997,288 to Rosenow ("Rosenow").

Applicant thanks Examiner Perungavoor for the courtesies extended to Applicant's undersigned representative, Trenton Roche, during the telephone interview held on June 26, 2008. During the interview, the Examiner and Applicant's representative discussed the advantages of the claimed invention over the prior art as discussed in Applicant's Specification. The Examiner agreed that if Applicant amended exemplary claim 1 to recite an "operation switch" that claim 1 would distinguish from the art of record. The amendments and remarks herein are consistent with the discussion during the interview.

Applicant hereby amends claims 1-4 and 6-17, and cancels claim 5 without prejudice or disclaimer. Claims 1-4 and 6-17 are currently pending.

#### **I. Regarding the rejection of claims 1-17 under 35 U.S.C. §103(a) as being unpatentable over Blatter in view of Rosenow**

Applicant respectfully traverses the rejection of claims 1-17 under 35 U.S.C. § 103(a) as unpatentable over Blatter in view of Rosenow. Claim 5 has been canceled, render its rejection moot. Furthermore, regarding claims 1-4 and 6-17, a *prima facie* case of obviousness has not been established with respect to these claims.

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<sup>1</sup> The Final Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Final Office Action.

"The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. . . . [R]ejections on obviousness cannot be sustained with mere conclusory statements." M.P.E.P. § 2142, 8th Ed., Rev. 6 (Sept. 2007) (internal citation and inner quotation omitted). "The mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art." M.P.E.P. §2143.01(III) (emphasis in original). "In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious." M.P.E.P. § 2141.02(I), (emphasis in original).

"[T]he framework for objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 U.S.P.Q. 459 (1966). . . . The factual inquiries . . . [include determining the scope and content of the prior art and] . . . [a]scertaining the differences between the claimed invention and the prior art." M.P.E.P. § 2141(II). "Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art." M.P.E.P. § 2141(III).

Independent claim 1, as amended, recites:

a key operation mode for performing a process in  
accordance with at least operating information supplied from  
an operation switch operated by a user arranged on a body  
. . .

chang[ing] the key operation mode to a command operation  
mode . . . in accordance with the command information  
supplied to the serial bus terminal

(emphasis added). Blatter and Rosenow, taken alone or in combination, fail to teach or suggest at least the claimed operation switch recited in amended claim 1.

Blatter discloses an apparatus comprising "a detector coupled to [a] connector for detecting a power source on the one of the plurality of conductors and inhibiting the control signal response to detection of the power source." Blatter, col. 2, ll. 6-10. Specifically, "to avoid possible equipment damage, an inventive safety circuit 200 is employed. Safety circuit 200 provides detection and protection by sensing the presence of a power supply potential on control bus 101, and in response, inhibiting coupling of control signals to the bus." Blatter, col. 4, ll. 39-43.

The Examiner recognized that Blatter "does not disclose the operation information and encryption/decryption process." Final Office Action at p. 3. The Examiner instead relies upon Rosenow, alleging that Rosenow "executes . . . selected one of the encryption and decryption devices that supplied power supply see Fig. 2C item 254C, 256C in accordance with at least the operating information supplied from the operating key arranged on the body before the detection of the predetermined information see Fig. 26 item 2602 and Fig. 42 item SKEY . . . ." Final Office Action at p. 3. This is not correct.

Turning to Figure 42, Rosenow states "FIG. 42 is a flow chart of the SKEY routine. This routine performs the SKEY function. The routine outputs status of the MFK and KEK." (Rosenow, col. 44, lines 5-7) (emphasis added). Thus, the SKEY element pointed to by the Examiner is a software routine or function. This does not constitute "an operation switch operated by a user arranged on a body" as recited in amended claim 1 (emphasis added). Furthermore, because Rosenow does not

disclose the required operation switch, there can be no "key operation mode for performing a processing in accordance with at least operating information supplied from an operation switch" and "chang[ing] the key operation mode to a command operation mode," as recited in amended claim 1. That is, due to the lack of any sort of operation switch in Rosenow, it follows that there is no such key operation mode.

As such, Blatter and Rosenow does not teach or suggest at least "a key operation mode for performing a process in accordance with at least operating information supplied from an operation switch operated by a user arranged on a body . . . chang[ing] the key operation mode to a command operation mode . . . in accordance with the command information supplied to the serial bus terminal," as recited in amended claim 1 (emphasis added).

Consequently, the Final Office Action has neither properly determined the scope and content of the prior art nor properly ascertained the differences between the prior art and the claimed invention. Accordingly, the Final Office Action has not clearly articulated a reason as to why the claim would have been obvious to one of ordinary skill in view of the prior art. Therefore, a *prima facie* case of obviousness has not been established for independent claim 1 and the Examiner should withdraw the rejection of the claim under 35 U.S.C. § 103(a).

Independent claims 13 and 17, while of different scope from claim 1, are also allowable over Blatter in view of Rosenow for the reasons set forth in connection with independent claim 1.

Claims 2-4, 6-12, and 14-16 depend from independent claims 1 and 13, and because both Blatter and Rosenow do not support the rejection of independent claims 1

and 13, under 35 U.S.C. § 103(a), Blatter and Rosenow also do not support the rejection of dependent claims 2-4, 6-12, and 14-16.

### **Conclusion**

In view of the foregoing, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

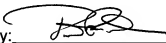
If the Examiner believes a telephone conference would be useful in resolving any outstanding issues, the Examiner is invited to call the undersigned at (202) 408-4268.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: June 30, 2008

By:   
Trenton J. Roche  
Reg. No. 61,164